

REMARKS/ARGUMENTS

Claim 1 is hereby amended to clarify that the source of light does not form part of the flame effect means. Claim 1 is also amended to recite a “moveable” flame effect means. Support for this amendment can be found on pages 2-6 of the specification, which generally describes the flame effect means as flexible, loosely attached and billowing. Claims 4, 5, 7 and 9 are amended to recite “according to claim” instead of “according to claims”.

In the Office Action of September 27, 2006, the Examiner rejected claims 1 and 2 under 35 USC 112, second paragraph, for failing to clearly define whether the source of light is part of the flame effect means. As amended in claim 1, the source of light is defined as a separate element of the space heater apart from the flame effect means. In light of this amendment, it is believed that claims 1 and 2 are consistent and clearly define the flame effect means. Therefore, Applicant requests that this rejection be withdrawn.

The Examiner also rejected claim 1 and claim 9/1 under 35 USC 102 as being anticipated by Balas et al. (EPO 348,137 A2). As noted by the Examiner, Balas discloses a housing where light from a light source passes through a flame effect means (41), bounces off of a reflector (36), back through the flame effect means (41) and onto a screen. Claim 1 is hereby amended to specify that the flame effect means is moveable. The moveable flame effect means of the present invention is positioned and configured to move, such as from a current of air, which assists in the creation of a realistic flame effect. This distinguishes the present claims from the flame effect means in Balas where the flame effect means is a fixed holographic light diffracting sheet (item 41 in the figures). The holographic flame effect disclosed in Balas is achieved by diffraction and diffusion of light by the holographic sheet, which occurs as a result of interference patterns (see columns 13 and 14 and figures 6a, 6b and 6c). Therefore, it is essential that the light diffracting sheet remain stationary in order to consistently maintain the proper diffraction and diffusion angles and avoid any loss or blurring of the

produced image. Balas discloses that the diffracting sheet is preferably a self-adhesive sheet that is directly attached to the reflector, which would not allow for any movement (column 11, lines 40-44). Balas does not teach or suggest a moveable light diffracting sheet as recited by amended claim 1. Accordingly, Balas cannot anticipate the presently claimed invention and this rejection should be withdrawn.

The Examiner also rejected claim 1 and claim 9/1 under 35 USC 102 as being anticipated by Schlett (U.S. 2,285,535). As noted by the Examiner, Schlett describes a device where light from a light source passes through a flame effect (44), bounces off of a reflector (38), and passes through a second flame effect (36) onto a screen (15). In contrast, amended claim 1 discloses a device (as illustrated in Figure 1 of the specification) where light from a light source passes through the flame effect means (14), off a reflector (32), and back through the same flame effect means (14) again before reaching the screen (24). Schlett does not disclose light from the reflector passing through a flame effect means a second time before reaching the screen. Because Schlett differs both structurally and functionally from the claimed invention, the claimed invention is not anticipated. Accordingly, this rejection should be withdrawn.

The Examiner objected to claims 4, 5, 7 and 9 for reciting "according to claims" instead of "according to claim". Claims 4, 5, 7 and 9 are hereby amended to correctly recite "according to claim". The Examiner also objected to claims 2-8, 9/2, 9/3 and 9/8 as being dependent on a rejected claim but stated that they would be allowable if rewritten in independent form. In light of the present amendments to claim 1, it is believed that claims 1 and 9/1 are now allowable. Therefore, it is believed that claims 2-8, 9/2, 9/3 and 9/8 are allowable in their present form.

In view of the foregoing, it is submitted that this case is in condition for allowance, and passage to issuance is respectfully requested. If there are further issues related to patentability, the courtesy of a telephone interview is requested, and the Examiner is invited to call to arrange a mutually convenient time.

This amendment is accompanied by a Petition for Extension of Time (one month) which includes authorization to charge \$60.00 to deposit account 07-1969 as required under 37 C.F.R. 1.17. It is believed that this amendment does not necessitate the payment of any additional fees under 37 C.F.R. 1.16-1.17. If the amount submitted is incorrect, however, please deduct from Deposit Account No. 07-1969 the appropriate fee for this submission and any extension of time required.

Respectfully submitted,

/michaelcurtis/

Michael Curtis
Reg. No. 54,053

GREENLEE, WINNER AND SULLIVAN, P.C.
4875 Pearl East Circle, Suite 200
Boulder, CO 80301
Telephone (303) 499-8080
Facsimile: (303) 499-8089
Email: winner@greenwin.com
Attorney Docket No.: 59-04
bmk: January 24, 2007